

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6075 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

AMRATBHAI P PATEL

Versus

COMMISSIONER OF POLICE

Appearance:

MR NM KAPADIA for Petitioner

Mr. Nigam Shukla, learned Asst.G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 04/11/96

ORAL JUDGMENT :

1. This Special Civil Application is directed against the order dated 30-4-96 passed by the Police Commissioner, Surat City detaining the detenu under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act'). The detention order is said to have been executed on 1-5-96 and since then the detenu is said to

be under detention lodged at District Jail, Bhavnagar.

2. This Special Civil Application was filed in this court on 14-8-96 and on 16-8-96 Rule returnable on 12-9-96 was issued. So far neither any reply has been filed on behalf of the respondents nor the affidavit of the detaining authority has been filed.

3. The grounds enclosed with the detention order show that 4 criminal cases were registered against the detenu under the Bombay Prohibition Act at Ichhapor Police Station. The detaining authority has considered the statements made by certain witnesses against the detenu's anti social and bootlegging activities and the witnesses have also requested that their identity be kept secret for reasons of their security. The detaining authority has opined that the detenu was engaged in the business of manufacturing and sale of unauthorised liquor, was a bootlegger and there was no alternative except to detain the detenu so as to prevent him from continuing with his anti social activities. Accordingly the detention order was passed.

4. The detention order has been challenged on more than one grounds. But the learned counsel for the petitioner has kept his arguments confined to the question that even if the allegations and materials against the detenu are taken to be correct on its face value, it can not be said that a case of breach of public order is made out. At the most it is a case of breach of law and order.

5. For the reasons given in the judgment dated 4-10-96 in Special Civil Application No.3879/96 it is found that the allegations and materials, on the basis of which the detention order has been passed, do not constitute a case of breach of public order and it is at the most a case of breach of law and order. The detention order, therefore, can not be sustained in the eye of law.

6. Accordingly this Special Civil Application is allowed and the impugned detention order dated 30-4-96 passed by the Police Commissioner, Surat City is hereby quashed and set aside and the detenu's detention is declared to be illegal. The respondents are directed to release the detenu and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

